IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO : 12318 of 2004

Between:

M.A.Jaleel, Conductor E 89676 S/o. M.A, Aziz
R/o. Anantsagar (V)& (P) Narayankhed (M) Medak District.

..... PETITIONER

AND

1 The Divisional Manager APSRTC Medak Division, Medak District.
2 The Depot Manager APSRTC Narayankhed Bus Depot, Medak District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent in issuing the proceedings No.PII/1(33))/97-NKD dt.30.3.1999 as illegal, arbitrary and unjust and consequently set aside the proceedings No.P11/1(33)/97-NKD dt.30.3.1999 issued by the 2nd respondent.

Counsel for the Petitioner:MR.G.RAVI MOHAN

Counsel for the Respondents: MR.K.HARINATH (SC FOR APSRTC)

The Court at the admission stage made the following ORDER:

Questioning the penalty imposed by the second respondent on the petitioner withholding increments with cumulative effect by issuing impugned proceedings No.P11/1(33)/97-NKD, dated
30-03-1999, the present writ petition is filed.

Mr.G.Ravi Mohan, learned counsel appearing for the petitioner contended that without conducting any enquiry, major penalty has been imposed on the petitioner and therefore, the impugned proceedings are liable to be set aside.

On the other hand, learned Standing Counsel appearing for the respondents contended that the penalty was imposed in the year 1999 and therefore, there are no grounds to interfere with the impugned proceedings.

For certain irregularities said to have been committed by the petitioner, a charge sheet dated 06-11-1997 was issued to him and he gave an explanation. As the explanation was not satisfactory, the disciplinary authority imposed a major penalty of deferment of two annual increments with cumulative effect. Imposing a major penalty without conducting regular departmental enquiry cannot be sustained under law. Admittedly, no regular departmental enquiry was conducted in this case. Though it is a matter to be remitted back to the Disciplinary authority for passing

appropriate orders, the learned counsel appearing for the petitioner requested this Court to modify the major penalty imposed by the second respondent to that of a minor penalty. As the alleged irregularities have taken place in the year 1999, at this point of time, it is not desirable to remit back the matter to the Disciplinary Authority for conducting any regular departmental enquiry and further more, the petitioner has requested to impose a minor penalty. Therefore, the penalty can be modified in view of the peculiar facts and circumstances of the case.

In the result, the writ petition is disposed of modifying the penalty of deferment of two annual increments with cumulative effect to that of deferment of one annual increment without cumulative effect. In the circumstances, no costs.

16th JULY, 2004.

Kvni

To

1 The Divisional Manager, APSRTC, Medak Division, Medak District.
2 The Depot Manager, APSRTC, Narayankhed Bus Depot, Medak District.

3 Two CD copies.